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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,419	10/17/2000	Gordon MacKay	CISCP261	4308

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BEYER WEAVER LLP  
P.O. BOX 70250  
OAKLAND, CA 94612-0250

EXAMINER
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HALIYUR, VENKATESH N

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/691,419

Applicant(s)

MACKAY ET AL.

Examiner

Venkatesh Haliyur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-44 (claims 1-21 are canceled) is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 22-44 are pending in the application. Claims 1-21 are canceled.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/2006 has been entered.

### ***Claim Rejections - 35 USC § 112***

3. Claims 29-32,40-43 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure, which is not enabling. The elements such as auto-negotiate message type, format and length of a known protocol are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Appropriate corrections are required to independent claims 29,40 and the dependent claims 30-32,41-43 for further consideration.

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4. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The terms "substantially", "auto-negotiate" "similar in length" in claims 29,30,40,41 are used by these claims to mean "loop detect message is substantially similar in length to an auto-negotiate message in a protocol supported by the device", while the accepted meaning is "the information fields (header and data bytes) in the loop detect message has the same format as that of auto-negotiate message of a well known protocol like TCP/IP". These terms are indefinite because the specification does not clearly redefine these terms. Appropriate corrections are required to the claims.

5. Claims 29-30,40-41 recites the limitation "auto-negotiate message" which is not clear as to how and when an auto-negotiate message is generated and sent by the first device for it to be compared with a loop detect message. There is insufficient antecedent basis for this limitation in the claims 29-30,40-41.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-28,33-39,44 are rejected under 35 U.S.C. 102(b) as being unpatentable over Meier et al [US Pat: 5,295,154] in view of McGuire et al [US Pat: 6,151,326].

Regarding claim 22,33,44 Meier et al in the invention of "Radio Frequency Local Area Network" disclosed a method for handling a communication in a network (**Fig 1, col 2, lines 45-68, col 3, lines 1-68**), the method comprising: receiving, at a first node (**gateway or root node, item 20 of Fig 1**), a communication (**HELLO/LISTEN/ATTACH/DETACH**) from a second node (**bridge, item 44 of Fig 1, col 2, lines 45-58**), wherein the communication includes an identification (**node ID, col 9, lines 1-10**); determining at the first node, whether the identification included (**distance information**) in the communication is closer to, equidistant from, or further from a predetermined value than an identification associated with the first node (**col 10, lines 1-68**); if the identification included in the communication is closer to the predetermined value (**CHANGE-THRESHOLD level**) than the identification associated with the first node, sending, from the first node to a third node (**bridge, item 50 of Fig 1**), a communication including the identification associated with the first node (**col 11, lines 1-20**) ; if the identification included in the communication is further (**distance/path cost**) from the predetermined value than the identification associated with the first node, sending, from the first node to a third node, a communication including the identification

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that was included in the communication received from the second node (**col 9, lines 1-68**) ; and if the identification included in the communication is equidistant (**hop count**) from the predetermined value as the identification associated with the first node to prevent loops in the network (**col 4, lines 1-50**), but fails to conclude that a loop exists in the network.

However, McGuire et al, in the invention of "Method and Apparatus for Automatic Device Segmentation and Port-To-Segment Distribution" disclosed a method for detection and prevention of loops in a network (**Fig 3, col 7, lines 5-37**).

Therefore it would have been obvious for one of ordinary skill in the art at the time the invention was made to use the method of detecting loops in a network as taught by McGuire et al in the system of Meier et al for detecting loops in the network. One is motivated as such in order to use a loop detection method to avoid formation of closed loops in the network with in which messages will circulate endlessly thereby reducing the throughput of the network.

Regarding claims 23,34, Meier et al disclosed that the first, second, and third nodes are repeaters (**col 7, lines 15 – 45**).

Regarding claims 24-27,35-38, Meier et al disclosed that the identification associated with the first node is a hardware address (**MAC**) of a network device coupled to the first node (**col 3, lines 36-45,col 15, lines 50-67,col 16, lines 1-12**) and the network device is a switch (**network controller, item 14 of Fig 1**) and the network device is a Gigabit Ethernet switch (**High Speed connections, col 10, lines 14-25**)

Regarding claim 28,39, Meier et al disclosed that if the identification included in the communication is equidistant (**hop count**) from the predetermined value as the identification associated with the first node, appointing the first node as a master loop breaker (**root node spanning tree algorithm prevents the formation of loops, col 4, lines 14-50**).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616. The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached @ (571)-272-7493. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Venkatesh Haliyur

Patent Examiner

WH 1/4/07

A handwritten signature in black ink, appearing to read "Wing Chan", written in a cursive style.

WING CHAN  
SUPERVISORY PATENT EXAMINER